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TELEPHONE (408) 971-2573
FAX (408) 971-4660

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From:	Kevin J. Zilka		

Docket No.:   AMDCP001   <u>**App. No: 09/924,391**</u>

Total Number of Pages Being Transmitted, Including Cover Sheet: 32

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Practitioner's Docket No. AMDCP001   *PATENT*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Tal Givoly

Application No.: 09/924,391   Group No.: 2155
Filed: 08/07/2001   Examiner: Philip B. Tran
For: SYSTEM, METHOD AND COMPUTER PROGRAM PRODUCT FOR PROCESSING
NETWORK ACCOUNTING INFORMATION

Mail Stop Appeal Briefs – Patents
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Alexandria, VA 22313-1450

TRANSMITTAL OF APPEAL BRIEF
(PATENT APPLICATION--37 C.F.R. § 1.192)

1.   Transmitted herewith is a SUPPLEMENTAL APPEAL BRIEF in this application, with respect to
the Notice of Appeal filed on April 20, 2004, and the Appeal Brief filed June 21, 2004, for the
purpose of re-instating the appeal of the instant matter in view of the latest Office Action mailed
June 29, 2005.

2.   STATUS OF APPLICANT

This application is on behalf of a small entity.

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*
*(When using Express Mail, the Express Mail label number is mandatory;
Express Mail certification is optional.)*

I hereby certify that, on the date shown below, this correspondence is being:

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22313-1450.

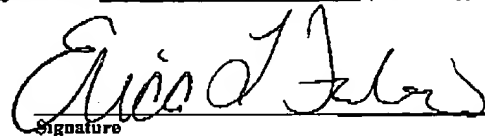| 37 C.F.R. § 1.8(a)	37 C.F.R. § 1.10*
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Date: 8/16/2005

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Erica L. Farlow

(type or print name of person certifying)

* Only the date of filing (' 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or
transmission under ' 1.8 continues to be taken into account in determining timeliness. See ' 1.703(f). Consider "Express Mail Post Office to
Addressee" (' 1.10) or facsimile transmission (' 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment
calculations.

Transmittal of Appeal Brief--page 1 of 2

3. FEE FOR FILING APPEAL BRIEF

Pursuant to 37 C.F.R. § 1.17(c), the fee for filing the Appeal Brief is:

small entity $250.00

Appeal Brief fee due $250.00

4. EXTENSION OF TERM

The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136 apply.

Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

5. TOTAL FEE DUE

The total fee due is:

Appeal brief fee $250.00
Extension fee (if any) $0.00

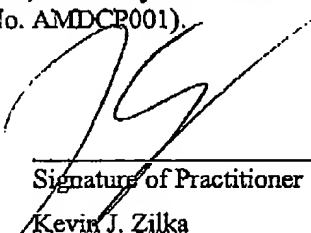**TOTAL FEE DUE $250.00**

6. FEE PAYMENT

Applicant believes no fees are due in view of the fact the fees were paid with the previously submitted appeal brief. However if it is determined fees are due, please charge the required fees to deposit account 50-1351 (Order No. AMDCP001).

A duplicate of this transmittal is attached.

7. FEE DEFICIENCY

If any additional extension and/or fee is required, and if any additional fee for claims is required, charge Deposit Account No. 50-1351 (Order No. AMDCP001).

Signature of Practitioner
/Kevin J. Zilka
Zilka-Kotab, PC
P.O. Box 721120
San Jose, CA 95172-1120
USA

Reg. No.: 41,429
Tel. No.: 408-971-2573
Customer No.: 28875

Transmittal of Appeal Brief—page 2 of 2

-1-

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of	)
	)
Givoly	) Group Art Unit: 2155
	)
Application No. 09/924,391	) Examiner: Tran, Philip B.
	)
Filed: 08/07/01	) Attorney Docket No. AMDCP001
	)
For: SYSTEM, METHOD AND COMPUTER)	
PROGRAM PRODUCT FOR)	
PROCESSING NETWORK)	
ACCOUNTING INFORMATION)	
)	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

ATTENTION: Board of Patent Appeals and Interferences

SUPPLEMENTAL APPEAL BRIEF (37 C.F.R. § 41.37)

This brief is in furtherance of the Notice of Appeal, filed in this case on April 20, 2004, and the appeal brief filed June 21, 2004, for the purpose of re-instating the appeal of the instant matter in view of the latest Office Action mailed June 29, 2005.

The fees required under § 1.17, and any required petition for extension of time for filing this brief and fees therefor, are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

This brief contains these items under the following headings, and in the order set forth below (37 C.F.R. § 41.37(c)(i)):

I   REAL PARTY IN INTEREST
II   RELATED APPEALS AND INTERFERENCES
III   STATUS OF CLAIMS
IV   STATUS OF AMENDMENTS
V   SUMMARY OF CLAIMED SUBJECT MATTER

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The final page of this brief bears the practitioner's signature.

-3-

I REAL PARTY IN INTEREST (37 C.F.R. § 41.37(c)(1)(i))

The real party in interest in this appeal is Xacct Technologies, Ltd.

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II RELATED APPEALS AND INTERFERENCES (37 C.F.R. § 41.37(c) (1)(ii))

With respect to other prior or pending appeals, interferences, or related judicial proceedings that will directly affect, or be directly affected by, or have a bearing on the Board's decision in the pending appeal, there are no other such appeals, interferences, or related judicial proceedings.

Since no such proceedings exist, no Related Proceedings Appendix is appended hereto.

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III STATUS OF CLAIMS (37 C.F.R. § 41.37(c) (1)(iii))

A.   TOTAL NUMBER OF CLAIMS IN APPLICATION

Claims in the application are: 1, 3-5, 7-11, 13-14, 16-20, and 23

B.   STATUS OF ALL THE CLAIMS IN APPLICATION

1.   Claims withdrawn from consideration: None
2.   Claims pending: 1, 3-5, 7-11, 13-14, 16-20, and 23
3.   Claims allowed: None
4.   Claims rejected: 1, 3-5, 7-11, 13-14, 16-20, and 23

C.   CLAIMS ON APPEAL

The claims on appeal are: 1, 3-5, 7-11, 13-14, 16-20, and 23

See additional status information in the Appendix of Claims.

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IV STATUS OF AMENDMENTS (37 C.F.R. § 41.37(c)(1)(iv))

As to the status of any amendment filed subsequent to final rejection, there are no such amendments after final.

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V SUMMARY OF CLAIMED SUBJECT MATTER (37 C.F.R. § 41.37(c)(1)(v))

With respect to Claim 1 et al., as set forth in Figure 4 and the accompanying description of the originally filed specification, a method is provided for processing network accounting information. Accounting information is initially received over a packet-switched network. Note operation 402 in Figure 4 and the accompanying description. At least one aspect of the received accounting information is then monitored. In use, at least a portion of the accounting information that occurs during a surge in network traffic is discarded, based on the monitored aspect. Note operation 420 in Figure 4 and the accompanying description. Further, the portion of the accounting information is discarded to prevent an overload of subsequent processing. Note page 5, first paragraph.

With respect to Claim 11 et al., as set forth in Figure 4 and the accompanying description of the originally filed specification, a computer program product is provided for processing network accounting information. Accounting information is initially received over a packet-switched network. Note operation 402 in Figure 4 and the accompanying description. At least one aspect of the received accounting information is then monitored. In use, at least a portion of the accounting information that occurs during a surge in network traffic (and is expendable) is discarded, based on the monitored aspect. Note operation 420 in Figure 4 and the accompanying description. Further, the portion of the accounting information is discarded to prevent an overload of subsequent processing. Note page 5, first paragraph. Still yet, at least a portion of remaining accounting information is allowed to pass to subsequent accounting processing, after receiving the accounting information.

With respect to Claim 20 et al., as set forth in Figure 4 and the accompanying description of the originally filed specification, a computer program product is provided for processing network accounting information. Accounting information is initially received over a packet-switched network. Note operation 402 in Figure 4 and the accompanying description. At least one aspect of the received accounting

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information is then monitored. In use, at least a portion of the accounting information that occurs during a surge in network traffic (and is expendable) is discarded, based on the monitored aspect. Note operation 420 in Figure 4 and the accompanying description. Further, the portion of the accounting information is discarded to prevent an overload of subsequent processing. Note page 5, first paragraph. Still yet, at least a portion of the accounting information is aggregated prior to passing to subsequent accounting processing, based on the monitored aspect, after receiving the accounting information. Even still, the portions of the accounting information are discarded and aggregated to prevent an overload of the subsequent accounting processing, and the subsequent accounting processing includes operation and business support system processing. Note operation 420 in Figure 4 and the accompanying description.

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VI ISSUES (37 C.F.R. § 41.37(c)(1)(vi))

Following, under each issue listed, is a concise statement setting forth the corresponding ground of rejection.

Issue # 1: The Examiner has rejected Claims 1, 3-5, 7-11, 13-14, 16-20 and 23 under 35 U.S.C. 103(a) as being unpatentable over Conklin et al. (USPN 5,991,881) in view of Engel et al. (USPN 6,115,393).

-10-

VII ARGUMENTS (37 C.F.R. § 41.37(c)(1)(vii))

The claims of the groups noted below do not stand or fall together. In the present section, appellant explains why the claims of each group are believed to be separately patentable.

<u>Issue #1:</u>

Issue # 1: The Examiner has rejected Claims 1, 3-5, 7-11, 13-14, 16-20 and 23 under 35 U.S.C. 103(a) as being unpatentable over Conklin et al. (USPN 5,991,881) in view of Engel et al. (USPN 6,115,393).

Group #1: Claims 1, 5, 9-10, 18-19, and 23

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on appellant's disclosure. *In re Vaeck,* 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir.1991). Appellants respectfully assert that at least the first and third elements of the *prima facie* case of obviousness have not been met.

With respect to the first element of the *prima facie* case of obviousness, the Examiner states that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to incorporate the teaching of Engel into the teaching of Conklin in order to efficiently monitor and control the network account information for preventing the overload situation of information in the network account information. Appellant respectfully disagrees with this proposition, especially in view of the vast evidence to the contrary.

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Specifically, the Examiner equates, in the latest action, appellant's claimed "accounting information" to include the attack data shown in Figure 7 from Conklin, in the context of appellant's claimed "discarding at least a portion of the accounting information ... based on the monitored aspect. See below.

INTRUSION
DETECTION
PROCESS
FIGURE 7
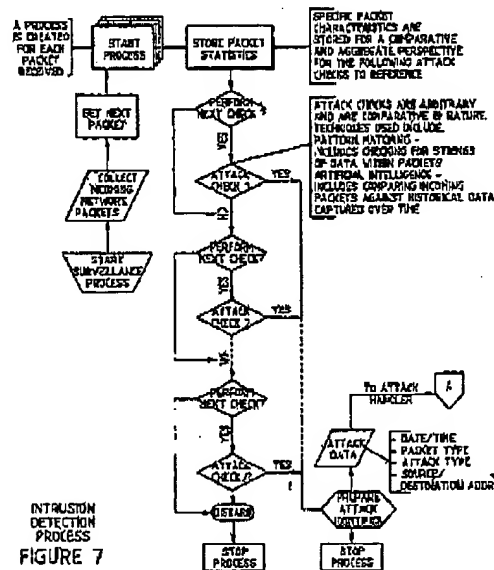
The Examiner then relies on col. 12, lines 7-67 from Engel to meet appellant's claimed "wherein the portion of the accounting information is discarded to prevent an overload of subsequent processing." However, the only mention of any sort of discarding in such excerpt is as follows:

```
"EM 38 also implements a throttle mechanism to limit the rate
of delivery of alarms to the console based on configured
limits. This prevents the rapid generation of multiple alarms.
In essence, Monitor 10 is given a maximum frequency at which
alarms may be sent to the Workstation. Although alarms in
excess of the maximum frequency are discarded, a count is kept
of the number of alarms that were discarded." (col. 12, lines
50-56)
```

Thus, it is clear that the Examiner, in the foregoing excerpt, is equating appellant's claimed accounting information with Engel's alarms, which are discarded in Engel.

-12-

To this end, the Examiner's proposed combination attempts to provide the functionality associated with the "attack data" of Conklin with the functionality of the "alarms" of Engel. To simply glean features associated with alarms, such as that of Engel, and combine the same with the *non-analogous art* of attack data, such as that of Conklin would simply be improper. Attack data is used for attempting to identify attacks, etc., while alarms provide a notice to a user of some sort of event.

"In order to rely on a reference as a basis for rejection of an appellant's invention, the reference must either be in the field of appellant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." In re Oetiker, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). See also In re Deminski, 796 F.2d 436, 230 USPQ 313 (Fed. Cir. 1986); In re Clay, 966 F.2d 656, 659, 23 USPQ2d 1058, 1060-61 (Fed. Cir. 1992) In view of the vastly different types of problems attack data addresses as opposed to alarms, the Examiner's proposed combination is inappropriate.

Further, any attempt to incorporate alarm functionality with the collection/use of attack data would render an *unworkable* combination. Alarms are merely notices of an "exception," etc. based on various criteria. For example, in Engel, the alarms are specifically equipped "to notify the Management Workstation of the occurrence of significant events." This is in no way compatible with the attack data collection/analysis functionality of Conklin for numerous reasons (e.g. the alarms are managed far "downstream" with respect to the data collection, etc.).

Note, for example, the very different modules that carry out the respective functions in Engel (e.g. alarm module 38 vs. RTP 32) and Conklin (e.g. alert notification - Fig. 6C vs. network observation/detection – Fig. 6A, 6B) below:
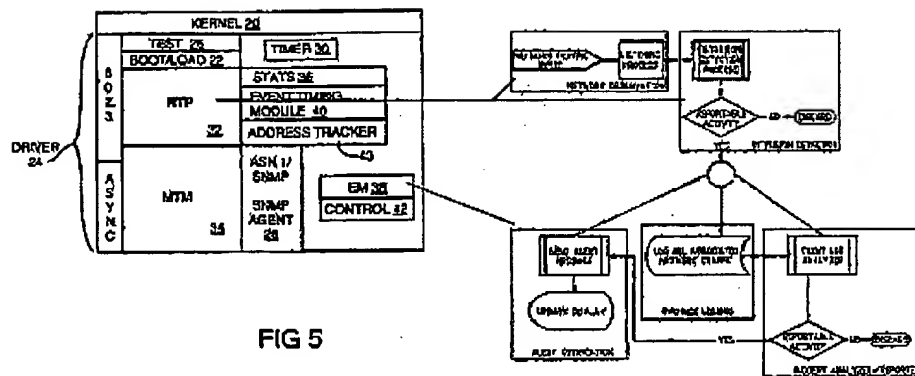
-13-

FIG 5

Even appellant's own disclosure (see below) reflects the vast difference in the modules handling data collection/analysis vs. alarms
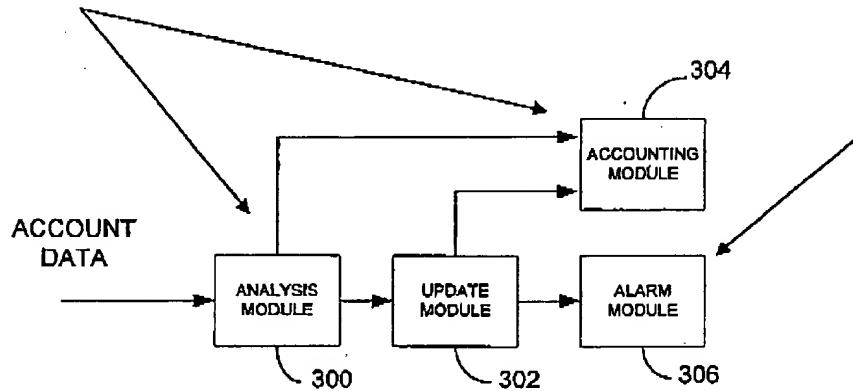

ACCOUNT
DATA

FIGURE 3

Further, the only context in which Conklin even suggests any sort of discarding of data is in the following excerpt:

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> "If, there is no indication of an actual or potential
> intrusion, then the examined packet data is discarded. When a
> packet or accumulation of packets match a predefined intrusion
> profile the Intrusion Detection function identifies the
> network traffic as a reportable activity will construct a data
> structure which contains a date/time stamp indicating the time
> of detection, the source and destination Internet Protocol
> (IP) addresses, an assigned message identifying the event
> detected. This data structure is passed to the Alert
> Notification function for processing." (see col. 5, lines 23-
> 32)

Thus, while appellant teaches and claims discarding accounting information when
such accounting information occurs during a surge in network traffic (which may or
may not be resulting from an attack), Conklin discards packet data when there is no
indication of an actual or potential intrusion. Thus, not only do Conklin's teachings
fail to meet appellant's claims, but Conklin *teaches away* from appellant's claimed
invention (as well as Engel's), thus further rendering it *unobvious. In re Hedges*, 783
F.2d 1038, 228 USPQ 685 (Fed. Cir. 1986).

Appellant thus respectfully asserts that the first element of the prima facie case of
obviousness has not been met, for at least the reasons set forth hereinabove.

More importantly, with respect to the third element of the *prima facie* case of
obviousness, the Examiner equates, in the latest action, appellant's claimed
"accounting information" to include the attack data shown in Figure 7. See below.

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INTRUSION
DETECTION
PROCESS
FIGURE 7
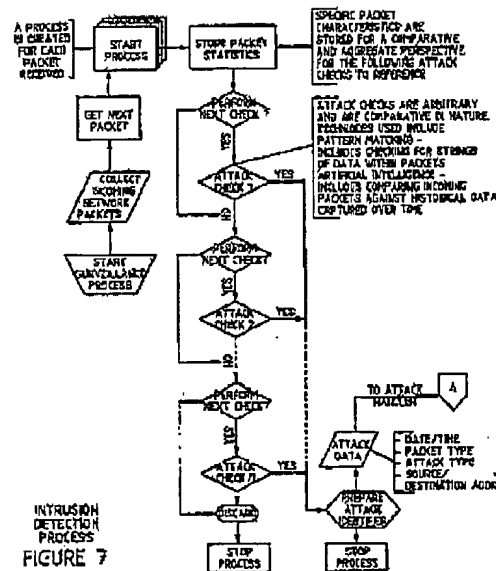
The Examiner continues by presenting the following argument with respect to
appellant's claimed "discarding at least a portion of the accounting information …
based on the monitored aspect."

> Conklin allegedly teaches: "(i.e., network traffic measurement
> and monitoring for reporting information about captured
> packets and detecting intrusion into the network and into
> computers connected to the network for denial of service) [see
> Abstract and Figs. 6-9 and Col. 1, Line 10 - Col. 2, Line 4.]"

However, even if the Examiner's statement is true (i.e. that Conklin suggests
network traffic measurement and monitoring for …), the Examiner has still not
shown how Conklin meets appellant's claimed "discarding at least a portion of the
accounting information that occurs during a surge in network traffic, based on the
monitored aspect."

Specifically, the Examiner has not shown how the attack data (which the Examiner
relies on to meet appellant's claimed "accounting information") is discarded when
such attack data occurs during a surge in network traffic, based on the monitored
aspect.

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Appellant thus respectfully asserts that the third element of the prima facie case of obviousness has not been met, since the Examiner's proposed combination does not disclose, teach or suggest appellant's claim language, as set forth hereinabove.

Still yet, the Examiner admits that "Conklin does not explicitly teach the portion of the accounting information is discarded to prevent an overload of subsequent processing." The Examiner then relies on col. 12, lines 7-67 to meet appellant's claimed "wherein the portion of the accounting information is discarded to prevent an overload of subsequent processing."

As mentioned previously, the only mention of any sort of discarding in such excerpt is as follows:

```
"EM 38 also implements a throttle mechanism to limit the rate
of delivery of alarms to the console based on configured
limits. This prevents the rapid generation of multiple alarms.
In essence, Monitor 10 is given a maximum frequency at which
alarms may be sent to the Workstation. Although alarms in
excess of the maximum frequency are discarded, a count is kept
of the number of alarms that were discarded." (col. 12, lines
50-56)
```

Appellant argues that the disclosed "alarms" do not meet appellant's claimed "accounting information." Again, in Engel, the alarms are specifically equipped "to notify the Management Workstation of the occurrence of significant events." Such notification in no way includes information, let alone accounting information, as claimed by appellant. Further, Engel's discarding is purposed to prevent the rapid generation of alarms, which simply does not rise to the level of specificity of appellant's claimed discarding to prevent an overload of subsequent processing, as claimed.

Again, appellant thus respectfully asserts that the third element of the prima facie case of obviousness has not been met, since the Examiner's proposed combination does not disclose, teach or suggest appellant's claim language, as set forth hereinabove.

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Group #2: Claims 3 and 13

With respect to Claims 3 and 13, the Examiner continues to rely on Figure 6 from Conklin to make a prior art showing of appellant's claimed "wherein the accounting information is discarded for dealing with heavy network traffic." After careful of Figure 6, it clearly fails to disclose, teach or even suggest such limitations. Again, Conklin deals with network attacks, not "dealing with heavy network traffic," by discarding accounting information, as claimed.

Again, appellant thus respectfully asserts that the third element of the prima facie case of obviousness has not been met, since the Examiner's proposed combination does <u>not</u> disclose, teach or suggest appellant's claim language, as set forth hereinabove.

Group #3: Claims 4 and 14

With respect to Claims 4 and 14, the Examiner relies on col. 4, line 52 – col. 5, line 45 from Conklin to make a prior art showing of appellant's claimed "generating a summary of the accounting information." Such excerpts, however, do not disclose, teach or even suggest "accounting information," let alone "generating a summary of the accounting information," as claimed.

Again, appellant thus respectfully asserts that the third element of the prima facie case of obviousness has not been met, since the Examiner's proposed combination does <u>not</u> disclose, teach or suggest appellant's claim language, as set forth hereinabove.

Group #4: Claims 7 and 16

-18-

Regarding Claims 7 and 16, the Examiner relies on col. 4, line 30-67; and Figures 6-8 from Conklin to make a prior art showing of appellant's claimed "wherein monitoring the at least one aspect of the received accounting information includes monitoring a rate of receipt of the accounting information." Such excerpts, however, do not disclose, teach or even suggest "a rate of receipt of the accounting information." Instead, there is a mere mention of a time of day, number and types of packets, common destination/source address combinations, etc. A number of packets constitutes an amount, not a "rate," as claimed.

Again, appellant thus respectfully asserts that the third element of the prima facie case of obviousness has not been met, since the Examiner's proposed combination does not disclose, teach or suggest appellant's claim language, as set forth hereinabove.

    Group #5: Claims 8 and 17

With respect to Claims 8 and 17, the Examiner relies on col. 4, lines 30-67; and Figures 6-8 from Conklin to make a prior art showing of appellant's claimed "wherein monitoring the at least one aspect of the received accounting information includes detecting whether the rate of receipt of the accounting information exceeds a predetermined amount." Such excerpts, however, do not even disclose, teach or suggest "a rate of receipt of the accounting information." Instead, there is a mere mention of a time of day, number and types of packets, common destination/source address combinations, etc. It is noted that Conklin does not even suggest a "rate," let alone "detecting whether the rate of receipt of the accounting information exceeds a predetermined amount," as claimed.

Yet again, appellant thus respectfully asserts that the third element of the prima facie case of obviousness has not been met, since the Examiner's proposed combination does not disclose, teach or suggest appellant's claim language, as set forth hereinabove.

    Group #6: Claim 11

-19-

The present group is deemed allowable for, at least in part, the reasons set forth with respect to Group #1. Furthermore, the Examiner has simply dismissed at least a portion of the contents of Claim 11 under the same rationale set forth above to Claim 1. However, Claim 11 includes the following limitations, not found in Claim 1:

"computer code for discarding at least a portion of the accounting information that occurs during a surge in network traffic and is expendable, based on the monitored aspect, after receiving the accounting information;

computer code for allowing at least a portion of remaining accounting information to pass to subsequent accounting processing, after receiving the accounting information;

wherein the portion of the accounting information is discarded to prevent an overload of the subsequent accounting processing (emphasis added).

Thus, in the present claim, it is further emphasized that expendable information is discarded, while at least a portion of remaining accounting information is allowed to pass to subsequent accounting processing. Only appellant teaches and claims such technique of ensuring that only a certain type of information, namely expendable information, is discarded, for optimizing operation. Further, information (not including the expendable information), is allowed to pass, to subsequent accounting processing, so that such accounting-specific processing may continue on the remaining accounting information, as claimed.

Still yet again, appellant thus respectfully asserts that the third element of the prima facie case of obviousness has not been met, since the Examiner's proposed combination does not disclose, teach or suggest appellant's claim language, as set forth hereinabove.

Group #6: Claim 20

-20-

The present group is deemed allowable for, at least in part, the reasons set forth with respect to Group #1. Furthermore, the Examiner has simply dismissed at least a portion of the contents of Claim 20 under the same rationale set forth above to Claim 1. However, Claim 20 includes the following limitations, not found in Claim 1:

> "logic for aggregating at least a portion of the accounting information prior to passing to subsequent accounting processing, based on the monitored aspect, after receiving the accounting information;
> logic for allowing at least a portion of remaining accounting information to pass to the subsequent accounting processing, after receiving the accounting information;
> wherein the portions of the accounting information are discarded and aggregated to prevent an overload of the subsequent accounting processing;
> wherein the subsequent accounting processing includes operation and business support system processing. (emphasis added).

In the present claim, it is further emphasized that an aggregation function is implemented in combination with the discarding to prevent an overload of subsequent accounting processing. The instant claim further emphasizes the fact that the subsequent accounting processing includes operation and business support system processing. Only appellant teaches and claims such a combination of features and components for preventing an overload of subsequent accounting processing.

Still yet again, appellant thus respectfully asserts that the third element of the prima facie case of obviousness has not been met, since the Examiner's proposed combination does not disclose, teach or suggest appellant's claim language, as set forth hereinabove.

In view of the remarks set forth hereinabove, all of the independent claims are deemed allowable, along with any claims depending therefrom.

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VIII APPENDIX OF CLAIMS (37 C.F.R. § 41.37(c)(1)(viii))

The text of the claims involved in the appeal (along with associated status information)
is set forth below:

1. (Previously Presented) A method for processing network accounting
    information, comprising:
(a) receiving accounting information over a packet-switched network;
(b) monitoring at least one aspect of the received accounting information; and
(c) after receiving the accounting information, discarding at least a portion of the
    accounting information that occurs during a surge in network traffic, based
    on the monitored aspect;
    wherein the portion of the accounting information is discarded to prevent an
overload of subsequent processing.

2. (Cancelled)

3. (Original) The method as recited in claim 1, wherein the accounting
    information is discarded for dealing with heavy network traffic.

4. (Original) The method as recited in claim 3, and further comprising
    generating a summary of the accounting information.

5. (Original) The method as recited in claim 1, wherein monitoring the at least
    one aspect of the received accounting information includes detecting a scan
    of a plurality of ports.

6. (Cancelled)

7. (Original) The method as recited in claim 1, wherein monitoring the at least
    one aspect of the received accounting information includes monitoring a rate
    of receipt of the accounting information.

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8.   (Original) The method as recited in claim 7, wherein monitoring the at least
        one aspect of the received accounting information includes detecting whether
        the rate of receipt of the accounting information exceeds a predetermined
        amount.

9.   (Original) The method as recited in claim 1, wherein monitoring the at least
        one aspect of the received accounting information includes monitoring a load
        on a system receiving the accounting information.

10.   (Original) The method as recited in claim 1, wherein the network includes
        the Internet.

11.   (Previously Presented) A computer program product for processing network
        accounting information, comprising:
        computer code for receiving accounting information over a packet-switched
        network;
        computer code for monitoring at least one aspect of the received accounting
        information; and
        computer code for discarding at least a portion of the accounting information
        that occurs during a surge in network traffic and is expendable, based on the
        monitored aspect, after receiving the accounting information;
        computer code for allowing at least a portion of remaining accounting
        information to pass to subsequent accounting processing, after receiving the
        accounting information;
        wherein the portion of the accounting information is discarded to prevent an
        overload of the subsequent accounting processing.

12.   (Cancelled)

13.   (Original) The computer program product as recited in claim 11, wherein the
        accounting information is discarded for dealing with heavy network traffic.

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14. (Original) The computer program product as recited in claim 13, and further comprising computer code for generating a summary of the accounting information.

15. (Cancelled)

16. (Original) The computer program product as recited in claim 11, wherein the computer code for monitoring the at least one aspect of the received accounting information includes computer code for monitoring a rate of receipt of the accounting information.

17. (Original) The computer program product as recited in claim 16, wherein the computer code for monitoring the at least one aspect of the received accounting information includes computer code for detecting whether the rate of receipt of the accounting information exceeds a predetermined amount.

18. (Original) The computer program product as recited in claim 11, wherein the computer code for monitoring the at least one aspect of the received accounting information includes computer code for detecting a scan of a plurality of ports.

19. (Original) The computer program product as recited in claim 11, wherein the computer code for monitoring the at least one aspect of the received accounting information includes computer code for monitoring a load on a system receiving the accounting information.

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20.   (Previously Presented) A system for processing network accounting
       information, comprising:
       logic for receiving accounting information over a packet-switched network;
       logic for monitoring at least one aspect of the received accounting
       information; and
       logic for discarding at least a portion of the accounting information that
       occurs during a surge in network traffic and is expendable, based on the
       monitored aspect, after receiving the accounting information;
       logic for aggregating at least a portion of the accounting information prior to
       passing to subsequent accounting processing, based on the monitored aspect,
       after receiving the accounting information;
       logic for allowing at least a portion of remaining accounting information to
       pass to the subsequent accounting processing, after receiving the accounting
       information;
       wherein the portions of the accounting information are discarded and
       aggregated to prevent an overload of the subsequent accounting processing;
       wherein the subsequent accounting processing includes operation and
       business support system processing.

21.   (Cancelled)

22.   (Cancelled)

23.   (Previously Presented) A method for processing network accounting
       information, comprising:
(a)   receiving accounting information over a packet-switched network;
(b)   detecting a scan of a plurality of ports;
(c)   detecting a scan of a plurality of Internet Protocol (IP) addresses;
(d)   detecting a rate of receipt of the accounting information;
(e)   detecting whether the rate of receipt of the accounting information exceeds a
       predetermined amount;
(f)   detecting a load on a system receiving the accounting information;

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(g)   conditionally preventing an overload of the accounting information based on
        aspects detected during steps (b)-(f) by discarding at least a portion of the
        accounting information after the receipt thereof to prevent an overload of
        subsequent accounting processing; and

(h)   generating a summary of the accounting information;

(i)   wherein the accounting information that occurs during a surge in network traffic
is discarded.

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IX APPENDIX LISTING ANY EVIDENCE RELIED ON BY THE APPELLANT IN THE APPEAL (37 C.F.R. § 41.37(c)(1)(ix))

There is no such evidence.

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In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 971-2573. For payment of any additional fees due in connection with the filing of this paper, the Commissioner is authorized to charge such fees to Deposit Account No. 50-1351 (Order No. AMDCP001).

Respectfully submitted,

By: _____ Date: _____

Kevin J. Zilka

Reg. No. 41,429

Zilka-Kotab, P.C.
P.O. Box 721120
San Jose, California 95172-1120
Telephone: (408) 971-2573
Facsimile: (408) 971-4660

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